

## NEWINGTON TOWN PLAN AND ZONING COMMISSION

### Regular Meeting

April 23, 2008

Chairman Cathleen Hall called the regular meeting of the Newington Town Plan and Zoning Commission to order at 7:00 p.m. in Conference Room 3 at the Newington Town Hall, 131 Cedar Street, Newington, Connecticut

### **I. ROLL CALL**

#### Commissioners Present

Commissioner Fox  
Chairman Hall  
Commissioner Kornichuk  
Commissioner Pane  
Commissioner Pruett  
Commissioner Schatz  
Commissioner Camerota  
Commissioner Ganley

#### Commissioners Absent

Commissioner Niro

#### Staff Present

Ed Meehan, Town Planner

Commissioner Ganley was seated for Commissioner Correll.

### **II. PUBLIC HEARINGS**

#### **A. PETITION 14-08 – Market Square, Newington Chamber of Commerce, 1046 Main Street, Newington, CT 06111 contact David Johnson, 3153 Berlin Turnpike, Newington, CT 06111, Town of Newington owner, request for Special Exception Section 3.2.8 Special Event Car Show, June 12, 2008.**

David Johnson, 52 Pheasant Run, Newington: I'm here on behalf of the Chamber of Commerce to request Special Exception to hold our second annual cruising Newington classic car show on Market Square. I've presented all of you event details outlining the details of the event. Very similar to last year. We had a very successful event last year, so I'm requesting approval to hold the event this year, June 12<sup>th</sup> with rain dates of the 19<sup>th</sup>, and the 26<sup>th</sup>. The show will commence at 5:30 and end at approximately 8:00 p.m. As we did last year, we would like to close the street to parking at 2:30, the road to traffic at 4:00 p.m. so we can begin parking the cars at 4:30, and the event will begin at 5:30, as I mentioned earlier. As I have noted, we will park the cars on either side of Market Square, angled westerly towards Main Street, and the center of the street will remain open for pedestrians and emergency vehicles. I have designated on the map attached that we do have some overflow parking designated in the public parking area. Last year we didn't use any of that parking, so any anticipated increase in participants this year will be parked back there. We have contracted for porta-potties and have had discussions with the Police Department for police patrol as we had last year and I respectfully request approval this evening. If there are any questions, I'd be happy to answer them.

Chairman Hall: Mr. Meehan?

Ed Meehan: Thank you. This event went off very well last year for the first time, it went very smoothly. A good turnout both with people who were displaying their vehicles as well as residents of Newington coming out. I guess it's going to be a little bigger this year, you are extending up Market Square towards Main?

David Johnson: Yes, last year we had closed off the street just past the entrance to Webster, all the way to Constance Leigh. I'm requesting that we close the entire street. I've spoken with the manager of the Webster Bank, they are open late that evening, but he didn't see that there would be an issue for those, for that one hour that the bank is open later that evening. The other question that we had was with Premier Cleaners. I stopped by there the other day, and the owner is, I guess recuperating from a broken leg so I didn't have the opportunity to speak with him, but I will follow up, and seek his approval.

Ed Meehan: The Chamber takes on the responsibility of notifying all of the businesses about the street closure and the town departments, as we did last year, will assist with sweeping the street, getting the barrels and the barricades out, coordinating with the police, some of the things that are on Dave's list already and Park and Rec will take care of the trash barrels and pickup, and the vendors will get their food licenses from the Health District. So what I would suggest is that we have a meeting as you get closer to this event with the town departments that are going to assist you, just to make sure that everything is scheduled and ready to go, and I'm sure it will be a success.

Chairman Hall: Questions from the Commissioners? My only question was, as far as noticing the businesses because I know that you are cutting down their operation time a little bit, I'm assuming that you are going to give them plenty of notice that this is going to happen?

Dave Johnson: Yes, we had several different formats last year. We had circulated a letter via the mail, we will do that again this year; and then the week prior we also canvassed all of the Market Square businesses, and if the Commission requests that we do that again, we certainly will, that is not a problem. We also will have the town sign by CVS the week prior to the event in plain view for all of the traffic up and down Main Street.

Chairman Hall: Any other questions? Is there anyone from the public wishing to speak in favor of the motion? Anyone wishing to speak in opposition to the motion? Well, not the motion, the petition, anyone just wishing to speak, not for or against? Seeing none. I think we can just close this, at this point. Thank you, thank you for coming before us.

Dave Johnson: Thank you for your time.

**B. PETITION 16-08 – 21-23 Monte Vista Avenue, Paul and Raymonde M. Albert owners and applicants, request for re-subdivision duplex property, R-7 Zone District.**

Paul Albert, 257 Boyleston Street: The reason that I am looking for re-subdivision at 21-23 Monte Vista. I know that a lot of them have been subdivided, I came and got the permits needed to do the fire wall, and the survey and all of that which you have in front of you, and I'm trying to get rid of it as soon as possible.

Chairman Hall: That's it? Mr. Meehan?

Ed Meehan: He's filed the map, the re-subdivision map the Commissioners have that in front of him. I also received a sign off from the Newington building department today, they have been out and done an inspection on the requirements for the separation of services and they have signed off on that. The only thing that I would suggest in looking at this map, that your land surveyor add a couple additional information, it would help clarify the map. It's going to have to be filed on the land records, and that would be the street addresses of the two units and then the zoning setback lines so that, that's standard when you have something that you're not having setback lines on it, and the third item would be a signature block for the Chairman to sign the record map. Three things, small details that need to be addressed here. The division of this property as far as the frontage and the two lots that would be created meet the standards for the R-7 zone district, and this is something that has been done over in that neighborhood off and on, not too much in the past few years, but I guess back in the mid '90's it was done quite a bit.

Chairman Hall: Any questions from the Commissioners?

Commissioner Fox: So right now Mr. Albert owns this whole piece of property, is that correct, and so what you want to do is to subdivide so you can sell off each one of the duplexes?

Paul Albert: That's correct.

Commissioner Fox: Okay, thank you.

Chairman Hall: Any other questions?

Paul Albert: Excuse me, you said that you need a number on it? 21,23?

Ed Meehan: Well, in each of the, there is a proposed line down the middle, one of these units is going to be 21 and one is going to be 23 so it would be helpful to people who are going to review this map in the future to know which one is which and then the second item is applying the zoning setback lines, which are thirty in the rear, thirty-five in the front, seven on the side yards, that's, that should be on there and then the standard signature block which we can provide you with a sample of that.

Paul Albert: Okay, thank you. I will see the guy tomorrow and I can, how many masters do you need?

Ed Meehan: Well, between now and the time the Commission votes I just really need one map so that I can verify that it is done, and then a record mylar is provided after the Commission acts and the approval is then placed on that record mylar. That permits you to file it on the land records.

Paul Albert: Now do I need a mylar for each side?

Ed Meehan: No, one map will cover it.

Paul Alberet: Okay.

Ed Meehan: This map right here with the items that I mentioned.

Chairman Hall: Any other questions? Anyone wishing to speak in favor of this petition? Anyone wishing to speak in opposition? Anyone wishing to speak to the petition. Seeing none, again, I don't see that there is any reason to keep this open, so we will close this petition.

**C. PETITION 19-08 – 26-28 Eighth Street, Sebastiano Menta owner and applicant, represented by Alan Bongiovanni, BGI Land Surveyors, 170 Pane Road, Newington, CT 06111 request for re-subdivision approval duplex property R-7 Zone.**

Alan Bongiovanni: Good evening, for the record my name is Alan Bongiovanni, 170 Pane Road in Newington, a licensed land surveyor in the State of Connecticut. I'm representing Sebastian Menta in the application for 26-28 Eighth Street here in Newington. It's the same development as the prior petition before you this evening. It is a duplex home that was built in the '50's in the R-7 zone and we are proposing to re-subdivide that. The applicant or the property owner did tell me that he did the separation of the utilities and I believe it was done through the town, but I don't have proof, I don't know if you found anything on that?

Ed Meehan: I haven't had a chance to research that.

Alan Bongiovanni: Prior to the next meeting we will provide that information to the town. We're guilty as well of not putting the individual street numbers on each half of the house which we will gladly add. It does meet all of the requirements for lots in the R-7 Zone. If you have any questions, I would be happy to answer them.

Chairman Hall: Mr. Meehan?

Ed Meehan: This, again a re-subdivision. The size of the resulting two lots complies with the R-7 Zone District as does the frontage. I think you do have the street numbers on here.

Chairman Hall: No, because the street numbers are 26,28, these are probably lot numbers.

Ed Meehan: Those must be lot numbers, so we are going to need street numbers and the zoning setback lines are there. I think it should be seven feet on the side yard rather than ten, and other than that, the map is compliant.

Chairman Hall: Any questions from the Commissioners?

Alan Bongiovanni: Thank you.

Chairman Hall: Anyone wishing to speak in favor of this petition? Anyone wishing to speak in opposition to the petition? Anyone wishing to speak to the petition. Seeing none, and again, I think there is no reason to keep this open, we will close this one as well.

**D. PETITION 22-08 – Assessor's Map SE 1552 parcel north side of Wendy's Restaurant, 26 Cedar Street Associates, LLC applicant, Newell and Clifford Stamm owners, request for Special Exception Amendment Section 6.4 Removal of Earth Products and processing on site. B-BT Zone District, contact Peter D'Addeo, 154 New Britain Avenue, 2<sup>nd</sup> Floor, Rocky Hill, CT 06067.**

Peter D'Addeo, 154 New Britain Avenue, Rocky Hill, CT: I represent the developer, 26 Cedar Street Associates. We are here to speak on Petition 22-08, and I believe the next one, 23-08 as well. We also will be speaking on another petition coming up, a similar application under New Business, 21-08, all very similarly the same application. I'm here this evening with Alan Bongiovanni, who we all know, who did our survey work and our engineering work on this particular job, and I also have with me tonight Cary Gagnon who is the operator and tenant of this proposed facility, Newell Stamm I believe will be coming in shortly.

I have here, for the record I would like to pass out to you folks, which is the, a copy of Petition 01-08 as amended, 01-08 Certificate of Action, and 54-07 which were approved Certificate of Actions that this board voted in favor of our petitions that we were here, you probably all remember, we were here a few months ago with a very similar application. Tonight we are here to modify those approvals to a small degree. Those Certificate of Actions have been recorded in the Town Land Records, Book 1967 as indicated on the top of page, book one for the amendment. The Certificate of Action was concerning the preparing and removal of earth products from the site as well as the similar Certificate of Action which was amended, record in book 1966, page 293 and Petition 54-07 which was the Special Exception for the restaurant and drive through window which was recorded in book 1966 page 294, and tonight we are here to discuss the modification of those permits which, a very slight modifications. We have no change with our site plan, and Al can later on outline that for you, if you would like, there is no change at all there. No change of our curb cut....

Chairman Hall: Excuse me, at this point we are talking about the removal of earth products, we will take care of these others in another petition, so if you could tell us about the earth removal at this time?

Peter D'Addeo: The earth removal is exactly the same as under the previous petition, there is no change.

Chairman Hall: You might want to just explain a little bit about it because we are creating a new record this evening on this.

Alan Bongiovanni: If I could, for the record, Alan Bongiovanni, 170 Pane Road. If you recall the previous petitions on the site, the earth removal special exception portion, we are proposing to remove or blast some 3700 cubic yards of rock, basically located in the developed portion of the site, in the southeast corner. There is a steep ramp that goes up into this area that not been excavated during the previous construction and we're basically proposing to blast that material, process it or crush it on site, and then use it to bring the rest of the site up to grade. Our presentation in the previous application was that this will allow us not to have to truck, blasted or shot rock from the site, have it processed somewhere else by some two to three hundred trucks and then bring that material back into construct the site. If we are allowed to process it on the site with a crusher, we will be able to build the site with a lot less traffic and accompanying safety issues.

Peter D'Addeo: Can I just add one item, I don't want to be, there is a modification to, I said that there was none, but there is a modification because in your approved plan, I apologize Madam Chairman, I did miss one thing, on your approved plan, Certificate of Action, it says on the plan, if Tim Horton's development does not proceed, this temporary site processing approval shall be void and really, the Tim Horton's is what we are modifying, because it is not currently going to be a Tim Horton's, it's going to be a Dunkin Donut, and that's really what we are asking for the modification for, really just the tenant. The work is exactly the same as, there really is no change in the work, I'm sorry, if you wouldn't mind, the next application on this.....

Chairman Hall: Okay, are we finished with the earth removal?

Alan Bongiovanni: Yes.

Chairman Hall: Mr. Meehan?

Ed Meehan: The only thing, as the Chairman said, it is a slight modification, but it is a new record, I believe that the calculations that you just shared with us, there might be some truck trips off the site, have some extra material.

Alan Bongiovanni: There may be some truck trips off, very limited in quantity, if there is an excess of a thousand cubic yards or something of that nature, there may be some, but it's anticipated that we are going to use the vast majority if not all, on the site.

Ed Meehan: Okay, thank you.

Chairman Hall: Any questions from the Commissioners?

Commissioner Ganley: The size of the building, is it the same, Dunkin Donuts vs Tim Horton's, in other words, what I am leading up to is, does it therefore require more excavation because the building is going to be slightly bigger?

Alan Bongiovanni: Actually, the building is smaller.

Commissioner Ganley: So it will require less excavation, what will it require, because it is a different building? Maybe you can elaborate on that.

Alan Bongiovanni: I don't remember exactly, but it's something like fifty square feet less than the previous footprint, so this is a slab on grade so there is not a basement excavation, you are looking at a trench wall so that couple of hundred square feet will be an insignificant amount of site work, less site work than the other application. It's basically the same application.

Peter D'Addeo: There's really no change to the site plan at all, but I'll talk about that later on. As far as the excavation work, there is no change at all.

Chairman Hall: Any other questions on the removal?

Commissioner Schatz: You say that there is not much to take out or blast, how much is there? How many truck loads?

Alan Bongiovanni: We calculated the quantity of rock in place to be about 3700 cubic yards, to take the existing surface down to the subgrade that we need to achieve. The unknown here is when it blasts and crushes because of the density of that rock how much it swells, and if it grows fifty percent more than the in-place quantity, then there may be 500, 800 cubic yards of material excess. If it crushes like typical Newington ridge basalt will, that's about a 1.3 factor that we estimated, then there should not be any excess.

Commissioner Schatz: So, 800, cubic yards.....

Alan Bongiovanni: 800 cubic yards is probably about twenty, twenty-five trucks.

Commissioner Schatz: Okay, thank you.

Chairman Hall: Any other questions from the Commissioners. Thank you. Anybody wishing to speak in favor of this petition? Anyone wishing to, Mr. Stamm, would you like to speak in favor of it?

Newell Stamm, 102 Halloran Drive: I speak in favor of this piece of property, I've had it quite a few years, we've had different views and we finally have a buyer who is sincere and has done a

lot of building in Newington, so we know what to expect from him, and carry through for that piece of land, from a landscaping view what will be there. I think we are fortunate all around that Dunkin Donuts is here and I would like to see this approved. Thank you.

Chairman Hall: Thank you. Anyone else wishing to speak in favor of the petition? Anyone wishing to speak against it? Anyone wishing to speak to the petition? Seeing none. How about some consensus, so we can close this one as well.

**E. PETITION 23-08 - Assessor's Map SE 1552 parcel north side of Wendy's Restaurant, 26 Cedar Street Associates, LLC applicant, Newell and Clifford Stamm owners, request for Special Exception Amendment Section 3.15.4 Restaurant Use with Drive Through Window Service, B-BT Zone District, contact Peter D'Addeo, 154 New Britain Avenue, 2nd floor, Rocky Hill CT 06067.**

Peter D'Addeo, 154 New Britain Avenue, Rocky Hill: Thank you. The same application that we just spoke about, the difference is that this application speaks about the approved drive-through window that we heard in January and November and March and this particular Certificate of Action was recorded on the land record, and states that the site for Tim Horton's restaurant drive-through, number one, and number two says Certificate of Occupancy for Tim Horton's restaurant will not be issues, and those really are the modifications that, the name of those two tenants are the reason that we're coming in for a modification of this particular approval seeing that it limited it to that particular tenant. The modification will allow a different tenant and we're all set.

Alan Bongiovanni: We talked about specifics of the site, we talked about a little earlier, but under this petition the building has shrunk about 200 square feet. When Mr. D'Addeo talks about there's no change in the site plan, the curb line, around the building did not change, it's just the actual layout of the building. It is 200 feet smaller which would produce probably less traffic, we didn't change the traffic pattern, we didn't change the parking count, we didn't change any of the features of the site plan, the stacking for the aisle, everything remained the same for this, it is still going to be served by city sewer and water, it is on the Berlin Turnpike which is a state highway, we're still going to be required to get our encroachment and curb cut permits for this application. It basically is the same thing. If you have any questions I'd be happy to answer them.

Chairman Hall: Mr. Meehan?

Ed Meehan: I don't have any questions.

Chairman Hall: Commissioners, any questions?

Commissioner Fox: Through the Chairman, Ed, is this a new application?

Ed Meehan: This is an amended application.

Commissioner Fox: Oh, okay. I was wondering about the drive-through if it was a new application it's after the, but if this is an amended application....

Ed Meehan: You are amending the Tim Horton's application. If they didn't file on the land records, their special exception and special permit I'm not sure if they could be here tonight because the non-conforming situation would be a question. They filed, and the special exception travels with the land.

Commissioner Fox: Thank you.

Chairman Hall: Any other questions? Thank you. Anyone from the public wishing to speak in favor of the application? Anyone wishing to speak in opposition? Anyone wishing to speak to the application, seeing none, again, I think the consensus is that we will close the petition as well.

**III. PUBLIC PARTICIPATION** (relative to items not listed on the Agenda-each speaker limited to two minutes.

None.

**IV. MINUTES**

April 9, 2008 – Regular Meeting  
April 9, 2008 – Special Meeting

Commissioner Pruett moved to accept the minutes of the April 9, 2008 Regular Meeting and the April 9, 2008 Special Meeting. The motion was seconded by Commissioner Fox. The vote was unanimously in favor of the motion, with seven voting YES.

**V. COMMUNICATIONS AND REPORTS**

A. Accessory Apartments – Opinion Letter – Town Attorney Ben Ancona, March 28, 2008.

Ed Meehan: Well, you have there the Accessory Apartment opinion letter from Attorney Ben Ancona. If you are of a mind to discuss it, it's been, it was on your agenda last meeting and it got too late in the evening. This opinion letter goes back to a request that the Commission made back in January, shortly after the new Commission was organized. Just to quickly summarize it, if you haven't got the letter with you I have extra copies, but Attorney Ancona touched on two issues, one is, can communities through their municipal zoning, if they do have accessory units, provide that the accessory units exclusively be limited to the elderly, over 65, and there is case law to that effect, and Attorney Ancona's opinion is that you could limit the accessory uses to persons over 65. The second item in his opinion letter has to do with the prior zoning regulations which we had which also limited the occupancy of the accessory unit to persons related by blood or marriage or adoption, and Ben is advising you there that that would not be appropriate to do, there are constitutional issues, there are exclusionary issues, he cites various cases and he would recommend that you avoid putting that into the regulations if you move forward with this, to bring it to public hearing. This is not something that he would find that it would be legal to do. So I think in essence that those are the two parts of the opinion that we asked him to respond to. If I missed something, we can discuss it.

Chairman Hall: I would like to open this to discussion this evening because this has been, shall I say, flying around for several months, and I think it needs to come back to this table for us to discuss at this time and then we will decide whether we want to move it forward for public hearing, or whatever, but we have not discussed it as a group yet, and I would like to do that. So I would like to open the floor.

Commissioner Fox: Thank you Madam Chairman. If I'm not mistaken I think we were looking for an opinion in order to guide us on whether we can have a public hearing and what should be brought up in a public hearing. I don't know if this answers that question. Actually, I don't know if it answers any question, but my main concern with this document is right at the end, and I'll quote, "as you well know, I believe there is an affront to the United States Constitution and bad public policy when the TPZ abolished accessory apartments and I am hopeful that this Commission will correct the error, therefore enclosed is my advice to any regulation." I think that



one sentence is telling us that, I don't want to berate Benny, but you know, he seems to have entered into this document, entered into this research already prejudiced against the deletion of the accessory apartments. I don't know what that does to this document, I don't know what that does to the Town, and I'd like to get opinions all around.

Chairman Hall: I agree, and response to that, I'm looking for response to Mike's comment.

Commissioner Ganley: My focus is on the very last sentence, "it is my advice that any regulation reinstituting accessory apartments stay clear of blood, marriage or adoption requirement and that age restrictions be avoided as well." What then happens is, it is not in fact, cannot be then labeled an accessory apartment. It's a single family home which now becomes a two family home because there are no restrictions as to who can move in, so if someone builds a smaller piece to their single home, it's now a two family home, and they can rent it to anybody that they want. It's really that simple. So, and then the, I'll take issue with the Attorney by the way, I don't think that he cited good law. Moore versus the City of East Cleveland has nothing to do with building a kitchen, modifying a building according to regulations to accommodate somebody else. It talks about somebody who moved relatives into their home, never said they modified anything. I don't think this case has anything to do with what we are talking about. We're talking about taking homes and the ones that are more susceptible to this are of course the split levels in town, where someone who owns a split level can just arbitrarily say, I'm building that. I'm going to convert the lower level plus the garage into an apartment, because I want to, and there are no restrictions placed on me whatsoever according to this particular opinion. Quite frankly, I think that is not a very good opinion. It also opens up the door if someone can do what they will, with this particular regulation, which by the way we don't even have, we don't even have it, what else can they ignore? Can they say, well, I'm going to put a deck off the side, and ignore the side line because I have a what, a constitutional right, I should have brought a copy of the Bill of Rights with me, but I didn't, I have a constitutional right to just do it because they own the house and there shall not be any restrictions. They want to put a regular full scale addition, they might not have to come to us to get a permit, because they have a constitutional right to just build on or add on to the house. I think this holds the door open to just about, just about wipe out any regulatory regulations that we may have in effect as it relates to size of a house, in a neighborhood that is already zoned in this instance for single family homes and throw it open to whatever they want. What if they want to put two apartments in it?

Commissioner Pruett: I'll echo the sentiments of Commissioners Fox and Ganley too. Much as I respect Benny's legal mind, I just think this would open it to almost no regulation and anybody could come in, like Tom said, and build an addition onto a house, they could make an accessory entrance, and have a two family house in the neighborhood. I can see this getting way out of hand, so, I would ask Ed if he would give an opinion, is there anything else in the zoning regulations that would prevent somebody from doing this if, I know between the R-12, R-20, R-7, is there something in our regulations that would prohibit somebody from doing that.

Ed Meehan: Sure. The, like in the R-12 zone, the R-20 zone, R-7 zone, the number of units is controlled by density and also single family homes. The only zone that permits two family is the R-7 zone by Special Exception, and then the R-12 zone where you have to go through a complete site plan and Special Exception process, but in existing neighborhoods where you have established homes, you simply cannot divide 1500, 2000 square feet home into two units, even if you had enough land, because it's strictly limited under the zoning, under your police power to one family unit, and the definition that we have always used up until the time that accessory was removed from the zoning regulations, was that second kitchen, constituting a second living unit. Then when the accessory unit provisions were in your regulations, it was a second kitchen combined with access to a separate unit, not going through the main house to get to it, so that is how we distinguish it. A lot of people have second kitchens, maybe in their basement, but it is not

segregated from the rest of the house, they don't have a separate entrance for another family unit. I think, if I could inject what I have read in here, I think on page 2, Ben is saying that you can, if you want to adopt accessory apartments, you can limit it to people who are 65 years or older. He cites a couple of cases, he goes on, I think he interjects some of his viewpoints of some of the probabilities or problems that might cause and he cites the example of does the elderly person move into the accessory and a younger caretaker moves into the principal unit, those are things that I think his legal mind is trying to share with you, but I believe and some of the research that I did and shared with him is very clear that municipalities can adopt accessory apartment regulations and limit it by age. It's done throughout the capital region and was promoted in the early '90's as a way of affordable housing for smaller, older households, and in the '90's Newington put in, related by blood or marriage. Now, he said that part is illegal, but the age restriction part is not illegal.

Chairman Hall: Doesn't the last sentence contradict that though?

Ed Meehan: Well, and Tom pointed this out, I think he is saying one thing, and the legal thing and I think he is saying some interesting things as a legal opinion, and is trying to give you some case law, and then in a couple of summary sentences he's putting in, going a little bit farther beyond that black and white legal stuff and putting some of his personal observations in. Everybody has personal observations, my advice to you is do what you want as policy makers because with this legal advice and his good advice in crafting a careful regulation, it comes down to you as policy makers making this legislative decision. It's not his decision to make for you.

Commissioner Schatz: I agree with the other Commissioners on what they said, the only thing that I don't see in that letter is really, other than age, which would be pretty hard to keep control, I mean, what are you going to do, card them? I mean, how do you do that, number one, but then number two, there is nothing in there that protects the neighborhood. I don't see anything in there that protects the neighborhood at all.

Ed Meehan: Well that is where you go back and look at your regulations and say, do you want to put this through a Special Exception procedure where you have a public hearing where the neighbors are alerted, you know, all the legal requirements that that affords the neighborhood, as well as the right to appeal, maybe you don't want to put exactly what was in your regulations before, if you want to do anything at all, that's your decision. Before you put something back in, I would think that some drafting would need to be done, and maybe discussed before it is brought to public hearing and shared with the attorney. In the end, he still may say, his opinion again, not a legal opinion, but his feeling I should say, is that you can't regulate these things. I would take exception to that, you can regulate them, if you limit it by age.

Chairman Hall: Any other comment?

Commissioner Kornichuk: I can see where Tom and everybody has been getting about the last few statement, I can understand what Ed said, but now Ed, you just said we can limit it to age, but like this item says here, what happens if the lady is sixty-five, she moves into there, and then all of a sudden there is a young couple, it's almost like you're having your cake and eating it too.

Ed Meehan: That is where some of the trickiness of crafting the regulation comes in and on the other side of that, you just brought it up Bob, how do you enforce this? You know, are you going to have someone recertify every couple of years, are you going, you know, it's not good municipal government practice to go and knock on doors and say, who's living here and how old are you? That's always an issue with these regulations, how you enforce them.

Chairman Hall: Any other comments?

Commissioner Fox: So what he is saying is, if we reinstate the Special Exception for accessory apartments, if my son-in-law, daughter-in-law, or whatever, needs a place to live, and you build an accessory apartment for him, that's not legal.

Chairman Hall: Well, that's if you have in your regulation an age restriction, and I think that again is what we need to decide. I think we need to decide on several levels. First of all, do we as a Town want to encourage accessory apartments? If we do, how do we want to have these accessory apartments structured and third, if it is going to be something that we ask an attorney an opinion on, it is an opinion. It is not necessarily based on fact, except part of that letter he did decide to cite case law, but it is an opinion. We could go out and have two, or three attorneys give us opinions, and we might get two or three different view points. So we have to keep that in mind, that although they do the best they can from their perspective, it may not be exactly as someone else sees it. So therefore I think it comes back again to this table, that we as a group need to decide, do we want accessory apartments in Newington, and if we do, how are we going to structure it? There are many ways to do it. I think part of the problem that we have had in the past, is the fear of neighborhoods that these will become rental units. I don't think by and large that the town is opposed to having people live within the confines of a house, whether they are related, whether they are elderly, whatever. I don't think that is the problem. I think the problem is that they are afraid that if that person for whom the accessory apartment was created, leaves, dies, whatever and then they bring someone else in, and create a rental situation, that totally changes the flavor of a neighborhood. So I think we have to decide, first do we want it, and second of all, how are we going to structure it to try to address all of these different issues. I think after the removal of the accessory apartments we did hear an outcry from the Town that made us maybe believe that we should have some kind of regulation for accessory apartments. I do think there was more negative feeling to the removal than we ever had prior to when we had it in, and how many years did we have that accessory apartment regulation?

Ed Meehan: It goes back to '92, '93.

Chairman Hall: So maybe about fifteen years? So, it was a fairly new concept anyway, and in that period of time, there really wasn't a lot of trouble. There were a couple of instances that certainly created buzz, it may not have been handled correctly and maybe got out of hand on both sides. So therefore as a group, I'm going to put it back on the table, do we want to address accessory apartments, do we want to bring it back as a possibility and just because we bring it back for discussion, and public hearing doesn't mean that ultimately we will end up with an accessory apartment regulation, but do you believe that we need to at least take a second look at it. If we do, then that's how we would proceed, that we would bring it back, have public hearings, do some research, find out how we can structure it so that we can live with it, have some options and then decide at the end whether or not we want to reinstitute it, and I'd like some opinion.

Commissioner Pruet: I have no problem re-examining the issue, I would like to get some more information. Perhaps Ed could get some information on area towns, West Hartford, Wethersfield, surrounding towns, see how they manage this, see if there are any problems, get some more information so we have no problems, have the public come in and give us their opinions too, once we establish what we want to do.

Chairman Hall: So I will take that as a yes, you would consider it back on the table.

Commissioner Fox: I would consider placing it back on the table also, holding a public hearing. I do have some concerns. The public hearings that we held were well publicized if I'm not mistaken. A lot of people knew that this was happening, it was in the papers, I don't remember where else it was, and I wasn't at that one public hearing, I was at, ironically a course given by the State on land use, and on that particular day they were talking about accessory apartments.

So I wasn't at that hearing. But, I don't think we had that many comments. There was you, there was then Mayor Mortensen, and I don't know how many others there were, so since there weren't that many comments, we went ahead with whatever we did. I would hope that with the outcry that we had, after we deleted it, and it was publicized, that we would have to move into the Council chambers. I think then we would have a good way to go, otherwise you know, we're on our own and the decision could remain the same, or modified accessory apartment special exception.

Chairman Hall: So you too would be willing to bring it back.

Commissioner Fox: I'd be willing to bring it back.

Commissioner Kornichuk: I have no problem with bringing it back to look at it, no matter what it takes, if Ed has to do a little homework, not that I want to put any more on Ed, but I'm willing to read and listen to anything public wise, or Commission wise, anything anybody has to say.

Chairman Hall: Thank you. Anyone else wish to chime in?

Commissioner Schatz: Yeah, I would be interested in bringing it back and give the public a chance to talk to us about it.

Commissioner Ganley: Mine is relative to our town attorney, I'd like to get some current Connecticut law as to the authority that a body such as ours has, I'm not interested in an opinion about what the law says, I want to know what it is.

Chairman Hall: And I think that is what we need because we sit around this table two nights a month, and we do the best we can, but at the same time, with very few exceptions, we are not attorneys, so therefore we do the best with the information that we have, and we do rely on counsel. But sometimes when you get counsel, you also still have a feeling that maybe this isn't the whole picture so I think we do need some more opinions, we do need some more comment, we do need some more input and we definitely need guidance as to how much, I hate to use the word power, but how much power we do have in order to establish these regulations. Also, once we have established them, knowing what the consequences may be but at the same time, making our decision, a consensus decision that we feel is best for the Town. I think I made that point once before, is that is really our job to establish policy for the Town of Newington. In many ways, yes, we do reflect other towns around us, but we are an individual entity and therefore it is our job to create what we feel is the best atmosphere for the town. It looks Ed, as if we have pretty much the direction that we would like to re-visit it, and I'll open it one more time, is there anybody else who would like to make an opinion?

Commissioner Pane: No, I don't have a comment.

Chairman Hall: All right, thank you and thank you for your opinions. It really helps us a lot to know what we are all thinking.

Ed Meehan: Just a couple of things, just to remind you that the Economic Development Commission breakfast at Indian Hill is Friday morning. We have given them a number, we've bumped the number up a little so if there is any last minute people who would like to go, you are certainly welcome. There is also coming up in the later part of May a land use academy course for TPZ members. It's being sponsored by UConn. I have information on that, if you would like to go. It's being held on Saturdays, so you'd have to give up Saturdays in May and June.

Chairman Hall: How many?

Ed Meehan: I think it's three in a row, different locations. Excuse me, there is only one in May, and there is one up in Torrington in September and one in November, but it's an all day event down in Groton, at Avery Point in May, May 17<sup>th</sup>. It's by the, it's called CLEAR, Connecticut Land Use Education and Research, some pretty good courses. If you are interested, I have that information.

We have, through the Town Managers office I came across some information on a grant from the Office of Policy and Management for communities that were updating their Town Plans of Conservation and Development. We put a letter of intent in to OPM looking for some assistance to do that. There is a big push at the state to help communities update their plan, hopefully we can get some help there.

### **NEW BUSINESS**

- A. **PETITION 20-08 – 29 Costello Place, Rafael Amaya Architects, applicant, DPP Investments, LLC owner, request for Site Modification to add to existing building PD Zone District.**

Ed Meehan: I have a fax request from Mr. Amaya who is the architect for this project asking if the Commission can defer this to your next meeting. He has a conflict schedule and also some of their engineering information is not ready, so he would like to defer this to May 14<sup>th</sup>.

- B. **PETITION 21-08 - Assessor's Map SE 1552 parcel north side of Wendy's Restaurant, 26 Cedar Street Associates, LLC applicant, Newell and Clifford Stamm owners, request for Site Plan Modification for approximately 2,085 sq. ft. restaurant use with drive through, previously approved Petition 55-07, March 12, 2008, PD Zone District.**

Peter D'Addeo: Good evening again. I have to pass out here which is the architectural rendering for the new proposed building on our site plan that we have been discussing this evening on the previous applications as well as this one. As you can see in this application, the building is 2,085 square feet versus Tim Horton's which was 2200 square feet. All other items on the site except for the few that Al pointed out and he will go through that with you again, to show you the small changes in the curve line of our site plan. All other items except from being a Tim Horton's will now be a Dunkin Donuts, is the same. We have for you here the textures and building materials that the building will be constructed from, and as well as I mentioned to you earlier, Cary Gagnon is here to answer any questions that you may have about the operation.

Alan Bongiovanni: Thank you Peter. For the record, Alan Bongiovanni, 170 Pane Road. This is an application to modify the site plan that this Commission just approved in the last couple of months. The site plan for a doughnut store. The application that this was approved under was for a Tim Horton's and it has changed and is now a Dunkin Donuts. It was about 2200 square foot restaurant with a drive through, now it's a little over 2000 square foot. No physical changes to the site plan were made to accommodate this building other than the actual footprint in certain areas got a little bit smaller and the freezer/cooler in the rear of the building changed. The driveways, the landscaping, the grading, the drainage, the utility services, curb cut, access, circulation, site lighting has been maintained as approved under the previous petition. It's really to change the tenant. That's why we're here. Along with that explanation, we have a color rendering of the front elevation of the building, I believe the architect submitted elevations of all four sides. Color palate, color palate of the interior, as well as the actual different color blocks that are being used along the front and the side of the building, and then where we have a solid wall, mostly related to the size of the building, hardy plank paneling, with the brown trimmed windows and trim around the building. If you have any questions, I'd be happy to answer them.

We think this is a fairly simple request, we're not looking to truly modify the site, we're looking to modify the tenant. Thank you.

Chairman Hall: Ed?

Ed Meehan: I don't really have any comments on the change in the site plan because it is minor as far as the footprint of the building. As far as the architecture, with this new tenant, where would the wall signs go on this building?

Alan Bongiovanni: With that, we have Cary Gagnon who is the proposed operator and we'll let him talk about signage, and the specifics of the building.

Cary Gagnon, East Hampton: I'm the Dunkin Donuts franchisee here in Newington. I've been here for twenty years, was approached to take this site, and there's three different locations for signage, and naturally we would put in a sign application and according to the square footage that we would be allowed, so we would be looking in the future for a pylon sign naturally, which is not this application. On the building there are two locations that I will point out to you. One is here, that they have used as a cup, with no lettering and then the words Dunkin Donuts across the top.

Ed Meehan: The only reason I ask is that that is a hip roof, that little part in front, is that a hip roof?

Cary Gagnon: Yeah, we, they originally had given us prints for the flat roof which we didn't feel was appropriate for this area. This is a new design that they have just given us, and I do have a little concern about the height of this, but I guess this gets boxed in so, this is a logo of a cup.

Ed Meehan: As long as the lettering doesn't get up where the shingle part of the roof is, it stays on the fascia, that would be considered a wall sign, and that's fine, as opposed to a roof sign, so just keep that in mind when you think about signage. The other question I had, is that all glass?

Cary Gagnon: It is.

Ed Meehan: It's all glass. Okay.

Commissioner Fox: Through the Chairman, Cary, I think that everybody knows that this is a complete departure from your other units there, is that because of the new prototype that Dunkin Donuts.....

Cary Gagnon: Yeah, Commissioner Fox. What they do is they, every couple of years it seems that they don't have enough to do so they change the design so what happens with us is, we work on blueprints for years at a time, and by the time we get a site approved, you know, sometimes our blueprints are obsolete already but this is the latest and the greatest that they are rolling out.

Commissioner Fox: There is no Baskin Robbins here?

Cary Gagnon: No, no Baskin Robbins, I went that route once already.

Commissioner Fox: Thank you.

Chairman Hall: Other questions?

Commissioner Schatz: On the door, is that going to be a door like, you can't see the side of the building, that is the front, on the side of the building, like the Dunkin Donuts in Wethersfield you can come in two different ways, to get into the building , is that going to be the same idea?

Cary Gagnon: Nope, this one has one entrance, but then it has the interior vestibule that is open.

Commissioner Schatz: Okay.

Ed Meehan: You have the full elevations there, and I think some Commission members have the 11 x 17.

Chairman Hall: Any other questions? I have one. What is the point of this 2001 model that the, and I assume that it is going to be this? What is the point?

Alan Bongiovanni: It's to create a branding. I did have discussion as well with the architect, talked about styles, and what they originally sent over for this prototype. It is something to create something different for the Dunkin Donuts new image, for their buildings. That is the style of the building.

Cary Gagnon: I asked that question, and they told me it was for brand recognition.

Chairman Hall: So they can put a big sign on it maybe.

Cary Gagnon: No sign. It's a cup.

Chairman Hall: Now, is there anything that looks like this anywhere? Or, are we going to be the first?

Alan Bongiovanni: I think this is the first with this roof line.

Cary Gagnon: I think this is the first in this area, but I think there is one on Maple Avenue in Hartford.

Chairman Hall: And this is Newberry in Boston, I assume.

Alan Bongiovanni: Yes.

Alan Bongiovanni: This is the first of this type with the hip roof.

Cary Gagnon: Maple Avenue has the flat roof.

Chairman Hall: But do they have the new color scheme?

Cary Gagnon: Maple Avenue does.

Chairman Hall: And the interior looks as if you are going into a cup of coffee, I mean, it's all dark and, I mean before it was all bright and magenta and orange and white, and now you are dark.

Alan Bongiovanni: This is color, similar to other chains that are out on the market.

Chairman Hall: I wonder which one? But, there is no green.

Cary Gagnon: I think they wanted to attack the old Caldor's look.

Chairman Hall: Any more questions? Seeing none. Thank you.

## **VII. OLD BUSINESS**

### **A. PETITION 07-08 Faye H. Karanian, 179 Meadow Street, Newington, CT 06111 applicant request for Zone Regulation Amendment "to restore Section 6.7" formerly Interior Lots and Single Family Homes, deleted effective August 15, 2008. Hearing closed March 26, 2008. Sixty five day decision period ends May 30, 2008.**

Commissioner Schatz moved that PETITION 07-08 Faye H. Karanian, 179 Meadow Street, Newington, CT 06111 applicant request for Zone Regulation Amendment "to restore Section 6.7" formerly Interior Lots and Single Family Homes, deleted effective August 15, 2007 (Public Hearing closed March 26, 2008) be postponed to May 14, 2008.

The motion was seconded by Commissioner Fox.

Chairman Hall: Discussion? It's been moved and seconded. We really didn't have a chance to talk about this the last time, again, it was presented to us and we really didn't have much time to talk about it.

Commissioner Kornichuk: I only have one comment on this, I really don't think that they showed me any real need, or evidence to bring this back into our regulations. I think it was just to suit their purpose. I thought it was their responsibility to prove to us that you know, that there was a need to bring this back.

Chairman Hall: Or new information.

Commissioner Kornichuk: Or new information. I was left with just the same, it was all for them, and no other need for anybody else in the Town of Newington so I really don't see where this really helped anybody else but them. That's all I have to say.

Chairman Hall: I did try to encourage new information last time, I did try to keep on track and try to get something that we could see, and again, going back to what we said earlier tonight, any regulation that we work on is for the entire Town. If we bring back a regulation it's not going to be for just one spot of zoning, it will be all over Town. It is something that we don't do lightly.

Commissioner Pane: Not necessarily for this petition, but interior lots in general, the Town of Newington has had them in their regulations for a long time and the reason was, a lot of the property, the way it was cut up, there were a lot of deep lots and because of that reason I think the interior lots should have stayed in the regulations.

Chairman Hall: Any other comment?

Commissioner Schatz: I disagree with Commissioner Pane. I understand what he is saying, but the town has been pretty well whittled down, so some of these large expanses are not there any more. As I say, we are talking about one person, but as you said, it's for the whole town.

Chairman Hall: If it goes back in, if we do decide to put it back in, it becomes available to anyone with property that can be subdivided.



Commissioner Pane: So it was okay to have it in our regulations for years and years and lots of people taking advantage of it, but now, taking it out because there are only a few properties left that may be able to use it. Not everybody can use it, the interior lots. It has to comply with certain regulations. The way that the town was cut up, it just, it was something that was needed for years and I don't recall many, many problems with the interior lots. When I was on the town Planning and Zoning there were several that came in, there's been a lot of people in town that have utilized this regulation for years, and I don't think it's been, I don't think it has hindered the Town of Newington in any way. Thank you.

Commissioner Fox: Since we are talking about this particular application, so I don't want to debate the pros and cons of reinstating rear lots with Domenic or anybody else today anyway. I have to agree with Peter. I don't think this application was changed one bit from the original application that we denied and as Peter said, it showed selfish needs. They want the interior lot reinstated so that they can build their piece, regardless of what the neighborhood thought. That to me would be spot zoning.

Commissioner Ganley: Mine was actually for another reason, once again, the same arguments seem to be regurgitated and the issue of the rights of way all around that particular parcel itself, that particular subdivision, some of the rights of way that are running through it, and the right of passage and that sort of thing was never resolved. We never even got to that, to make a decision. We were always trying to figure out what it was that this guy was proposing to do with his right of way, sell it, keep rights of way, and I've used this expression before, and I'll use it again, the presenter was playing legal jujitsu with the property lines and with rights of way and none of it convinced me then or on his resubmission that we should grant him the reinstatement of the back lot ordinance or regulation, I just didn't see it.

Chairman Hall: Any other comments? Again, it is this petition that is generating this conversation, so it is the petition that we will be dealing with, however it does have a ramification, that this one petition is not just for the petition, eventually, so what we do is that we make up our mind on the information that was given us, for this petition, and it will be brought back on the 14<sup>th</sup> of May and if no one else has any comment at this time, then I will entertain a vote.

The vote was unanimously in favor of the motion with seven voting YES.

**B. PETITION 08-08 Faye H. Karanian, owner and applicant, 179 Meadow Street, Newington, CT 06111 request for interior lot at 179 Meadow Street Section 6.7 (proposed) R-12 Zone District. Hearing closed March 26, 2008. Sixty five day decision period ends May 30, 2008.**

Commissioner Pane moved that PETITION 08-08 Faye H. Karanian, owner and applicant, 179 Meadow Street, Newington, CT 06111 request for interior lot at 179 Meadow Street Section 6.7 (proposed) R-12 Zone District (Public Hearing closed March 26, 2008) be postponed to May 14, 2008.

The motion was seconded by Commissioner Kornichuk.

Chairman Hall: Of course 07 and 08 go hand in hand, asking for postponement on this. Any comment on this particular proposal?

Commissioner Kornichuk: Just a question, do we need to cover, do we need to re-talk on this, or can we just say what we said on the previous petition and apply it to this one.

Ed Meehan: You should, before you vote on this, have your comments part of the record, specifically to the characteristics of this Special Exception request. Some of the things about this lot, related to Spur Lane, Meadow Street, some of the property issues maybe, that are very specific to this property versus the prior application, 07, which is more generic, town wide. But you do have a chance to think about that, and I would encourage you to put that into your discussion the night that you vote on this, however you are going to vote on it.

Chairman Hall: If anyone has any discussion at this point? Or any questions of Ed? Ed, do you have anything to add at this point?

Ed Meehan: No, not relative to this petition.

The vote was unanimously in favor of the motion, with seven voting YES.

**C. PETITION 09-08 – Spin Cycle, LLC, 190 Fenn Road, applicant, Umberto Manacchio, owner, represented by Attorney Vincent F. Sabatini, One Market Square, Newington, CT 06111 request for Special Permit Section 6.6 Liquor Permit, I (Industrial) Zone District.**

Commissioner Fox moved that PETITION 09-08 – Spin Cycle, LLC, 190 Fenn Road, applicant, Umberto Manacchio, owner, represented by Attorney Vincent F. Sabatini, One Market Square, Newington, CT 06111 request for Special Permit Section 6.6 Liquor Permit, I (Industrial) Zone District be approved with the following findings and conditions:

**A. Findings**

1. The applicant has demonstrated that the standards of Section 6.6 for restaurant class permit are met.
2. The site has limited parking (off site by easement) granted by the Town for parking within Fenn Road right of way and was granted Special Exception approval January 12, 2005 Petition 54-04 for a 600 sq. ft. restaurant with not more than 15 seats.

**B. Conditions**

1. The Special Permit for liquor use is limited to beer and wine service to restaurant patrons within the 600 sq. ft. restaurant area.
2. Approval of the restaurant liquor use should not be construed to permit entertainment events at this location that could increase the building's occupancy beyond the restaurant seating capacity. Bistros and similar places of entertainment are not permitted in the I (Industrial) District.
3. This Special Permit restaurant liquor use is granted to the applicant's doing business as "Spin Cycle LLC" and is not transferable to another restaurant use without the prior approval of the Commission.
4. In approving the dual use of this building the Commission is permitting occupancy based on the applicant's presentation that the nature of the Laundromat business and the restaurant can co-exist sharing the limited parking. Should either of these uses cease, the vacated space shall not be converted to a new use or expanded without the prior approval of the Commission.

The motion was seconded by Commissioner Pruett.

Chairman Hall: Discussion?

Commissioner Kornichuk: I think this covers everything that we had to say at the last meeting.

Commissioner Pruett: I think it's a very good motion.

Chairman Hall: Ed, is there anything that you wish to add at this point?

Ed Meehan: No, if the Commission feels comfortable with this findings and conditions that's all, I leave it at that.

The vote was unanimously in favor of the motion with seven voting YES.

**D. PETITION 11-08 – 395 Willard Avenue, Rotundo Developers, LLC owner, Mervyn L. Rimai, MD applicant represented by Milton Lewis Howard, One Regency Drive, Bloomfield, CT 06002 and Alan Bongiovanni, 170 Pane Road, Newington, CT 06111 request for Special Exception Section 3.2.9 Adult Day Care, CD Zone District.**

Commissioner Pruett moved that PETITION 11-08 – 395 Willard Avenue, Rotundo Developers, LLC owner, Mervyn L. Rimai, MD applicant represented by Milton Lewis Howard, One Regency Drive, Bloomfield, CT 06002 and Alan Bongiovanni, 170 Pane Road, Newington, CT 06111 request for Special Exception Section 3.2.9 Adult Day Care, CD Zone District be approved the Commission finding:

1. The proposed adult day care use will serve the needs of the region's frail elderly.
2. That the applicant has demonstrated that the property has adequate size and frontage for safe drop off and pick up of the building's users.
3. That the general Special Exception standards of Section 5.2 for need, compatibility with area, relationship to adjoining buildings, safe traffic circulation and public utility services have been met.

The motion was seconded by Commissioner Fox.

Chairman Hall: Comments, discussion, anything?

Commissioner Fox: I think at the presentation of this application a few of us did mention the need for adult day care centers in this area, and I salute Dr. Rimai for looking to Newington and for presenting such an application and starting such a facility in Newington.

Chairman Hall: Any other comment? I know that this in particular, more so than some other petitions that have come before us created quite a bit of excitement really, around town. I think everyone realizes the need for this, and those of us around the table that are closer than others, I think it's a pretty good idea.

The vote was unanimously in favor of the motion, with seven voting YES.

**E. PETITION 12-08 – 395 Willard Avenue, Rotundo Developers, LLC owner, Mervyn L. Rimai, MD applicant represented by Milton Lewis Howard, One Regency Drive Bloomfield, CT 06002 and Alan Bongiovanni, 170 Pane Road, Newington, CT 06111 request for Site Plan approval 14,800 sq. ft. building Adult Day Care Use. CD Zone District.**

Commissioner Ganley moved that PETITION 12-08 – 395 Willard Avenue, Rotundo Developers, LLC owner, Mervyn L. Rimai, MD applicant represented by Milton Lewis Howard, One Regency Drive Bloomfield, CT 06002 and Alan Bongiovanni, 170 Pane Road, Newington, CT 06111 request for Site Plan approval 14,800 sq. ft. building Adult Day Care Use CD Zone District be approved based on the plans entitled “Family Adult Daycare” prepared by BGI Land Surveying, dated March 3, 2008, scale 1”=20’ sheets 1 to 10, and architectural elevations prepared by Milton Lewis Howard Associates, Inc. dated March 20, 2008 Sheets A1.0 and A2.0

1. Prior to the Chairman’s signing the site plan mylars the Fire Marshal’s request for the relocation of the hydrant on Willard Avenue and the addition of one new hydrant adjacent to the west access drive shall be addressed and shown on the plan as approved by the Fire Marshal.
2. The Newington Conservation Commission’s Inland Wetlands Permit No. 2008-02 is acknowledged and made a part of this site plan approval.

The motion was seconded by Commissioner Kornichuk. The vote was unanimously in favor of the motion, with seven voting YES.

**F. PETITION 17-08 170 Pane Road, Reno Properties, LLC applicant and owner represented by Alan Bongiovanni, BGI Land Surveyors, 170 Pane Road, Newington, CT 06111 request for Site Plan Modification Section 5.3 for 60,000 sq. ft. addition to the back of the existing Reno Machine building per Site Development master plan approved January 28, 2004, Petition 51-03 PD Zone District.**

Commissioner Kornichuk moved that PETITION 17-08 170 Pane Road, Reno Properties, LLC applicant and owner represented by Alan Bongiovanni, BGI Land Surveyors, 170 Pane Road, Newington, CT 06111 request for Site Plan Modification Section 5.3 for 60,000 sq. ft. addition to the back of the existing Reno Machine building per Site Development master plan approved January 28, 2004, Petition 51-03 PD Zone District be approved for the plans entitled “Improvement Location Map, Reno Properties, LLC” Sheet 1 of 1, prepared by BGI Land Surveyors, scale 1”=40’ dated March 31, 2008.

The approval is based on the master site development layout plan showing grading and common area storm water drainage control for 50 Rockwell Road, 170 Pane Road and 156 Pane Road. Prior to the chairman’s signing of the site plan mylar, Sheet 1 of 1, the applicant’s engineer, WMC shall provide the Town Engineer certification that the existing storm water system was installed in accordance with the approved master plan.)

A boundary map shall be submitted on mylar showing the property lines for 156, 170 Pane Road and 50 Rockwell Road.

Alterations to the site plan for the 60,000 sq. ft. building addition, as may be required by the Fire Marshal, for access to the back of the building will be reviewed by the Town Planner and if needed addressed with the filing of the final “as built” map.

The motion was seconded by Commissioner Pruett.

Chairman Hall: Discussion on this?

Ed Meehan: Just to explain a little bit the last comment about the alterations to the addition for 60,000 square feet. The building department has looked at the plan, and the plan doesn't have a lot of architectural information as to egress doors might be. They have one loading dock on the west side, so they may need to look at this further as the plan evolves. Also, the Fire Marshal, when they do know the rating for the building, and what is going on in there, there may be requirements for access points which could affect the layout of the plan. Depending on how much the plan changes, they could be very slight, and we could treat those as "as built" or if they require substantial modification, they would come back to the Commission, but talking to Pete Hobbs the building inspector, our guess is, at this point, it would be easy just to handle these as "as built" plans, rather than coming back again. It's a masonry building, steel, as long as the steel is fire rated and the building is sprinklered, and the Fire Department does a pre-response plan, I think most of this can be handled through the "as built" plan review.

Chairman Hall: And the same with the (inaudible) and the storm water drainage?

Ed Meehan: Yes, that has been done, and we're looking, we should have it in our files, but we can't track it down, but I know it was done because we released the bond to 50 Rockwell Road, is the certification letter from WMC, and I understand that Mr. Bongiovanni may have one already in his file.

Chairman Hall: Any other comment on this, or discussion?

The vote was unanimously in favor of the motion, with seven voting YES.

**G. PETITION 18-08 3320 Berlin Turnpike, GGM Properties, LLC, 239 Shunpike Road, Cromwell, CT 06416, attention Mr. Rocco Christiana, owner and applicant, request for site development approval for 3,240 sq. ft. retail use, 1,300 sq. ft. office area and 8,637 sq. ft. warehouse storage redevelopment of former EPPCO property, PD Zone District.**

Commissioner Schatz moved that PETITION 18-08 3320 Berlin Turnpike, GGM Properties, LLC, 239 Shunpike Road, Cromwell, CT 06416, attention Mr. Rocco Christiana, owner and applicant, request for site development approval for 3,240 sq. ft. retail use, 1,300 sq. ft. office area and 8,637 sq. ft. warehouse storage redevelopment of former EPPCO property, PD Zone District be approved the Commission finding that the redevelopment and reuse of this property will result in a new business with public utility services, removal of a prior business's encroachment onto adjacent Town property; and the granting of a storm drainage easement to the Town.

Prior to the Chairman signing the site plan mylars the applicant shall:

1. Modify the plans to provide a six (6) foot chain link fence along the easterly boundary adjacent to the Town of Newington land;
2. Shown on sheet 3 of 6 an easement, 25 foot minimum, over the 36" and 42" RCP, in favor of the Town of Newington for storm drainage;
3. Modify the shape of the southerly warehouse space to provide access to the storm drainage easement area;
4. Add note that applicant will coordinate with the abutting property owner along the northerly property boundary, N/K MKU, LLC, the installation of concrete curbing, grading and landscaping plantings.

5. Address the Town Engineer's drainage review comments and incorporate into site plan as needed.

Prior to the issuance of the Certificate of Occupancy for existing 3,240 sq. ft. building the applicant shall: **(1)** post a site development completion bond, amount determined by the Town Engineer; **(2)** submit to the Town Planner draft drainage agreement for review of the Town Attorney prior to recording on the land records, **(3)** submit to the Town Engineer certification that the site's storm water system has been constructed in accordance with the approved plan.

The motion was seconded by Commissioner Fox.

Chairman Hall: Discussion. Ed?

Ed Meehan: This has been a tough site, it has been unused for several years, with the buildings being worked on actually, right now, it was the old EPPCO garage, it's a nice location and it's a good addition on the Berlin Turnpike, so it's good to get the utilities squared away and get it reused.

Commissioner Schatz: I feel the same way, it cleans the property up.

Chairman Hall: What they have done so far is quite attractive, so it can only help.

The vote was unanimously in favor of the motion, with seven voting YES.

**H. PETITION 02-08 418 Willard Avenue Udolf Properties owner and applicant attention Mr. Leonard Udolf, 2475 Albany Avenue, West Hartford, CT 06117, represented by HRP Associates, Inc., 197 Scott Swamp Road, Farmington, CT 06032, attention Frank Sova, PLS, request for site plan modification to construct a 31 space parking lot. PR Planned Residential Zone District. Continued from March 26, 2008. Extension granted to April 23, 2008.**

Commissioner Pane moved that PETITION 02-08 418 Willard Avenue Udolf Properties owner and applicant attention Mr. Leonard Udolf, 2475 Albany Avenue, West Hartford, CT 06117, represented by HRP Associates, Inc., 197 Scott Swamp Road, Farmington, CT 06032, attention Frank Sova, PLS, request for site plan modification to construct a 31 space parking lot, PR Planned Residential Zone District be approved based on the plans "Udolf Properties 386-472 Willard Avenue; Revised dated April 9, 2008, prepared by HRP Associates, Inc., scale 1"=20', Sheets C1 to C4.

Prior to the chairman signing the site plan mylar the modifications to the storm drainage pipe sizes recommended by the Town Engineer shall be made.

The motion was seconded by Commissioner Pruett.

Chairman Hall: Discussion? Ed?

Ed Meehan: I think we have finally brought closure to this, the plans were modified and there are a couple of small items that the Town Engineer is asking that they clean up, and also that the revisions be coordinated with what the Department of Transportation is going to need because part of this system, or all of this system ends up in their Willard Avenue storm drainage system, so they can move onto the state with this approval.

The vote was unanimously in favor of the motion, with seven voting YES.

Chairman Hall: We are not going to be acting on the Chamber of Commerce petition?

Ed Meehan: I have a motion from last year, if I change the date you can add it to the agenda and act on it if you want?

Chairman Hall: Is there time for them?

Ed Meehan: They aren't going to have this until June, so you have a couple of meetings yet.

Chairman Hall: We can do it in May. We'll bring it back on the 14<sup>th</sup>, then, as long as there is no need for them to have to have this in order to do something.

Ed Meehan: They're all set. The other thing going on, through the Town departments is their event application, which each department signs off on, and it ends up at the Manager's office with the Chamber filing their insurance certificate. They won't file that insurance certificate until about the week before the event.

Chairman Hall: I just want to make sure again that they know that they can do it and start notifying those businesses because the last thing that we want is to have a positive event and have people complaining about it because they didn't know it was going to happen.

**VIII. PETITIONS FOR SCHEDULING (TPZ May 14, 2008 and May 28, 2008)**

Ed Meehan: There is one that is not on here, it's for a sign down on Lewis Street for Dr. Judson's office. That's the only one outstanding right now.

Commissioner Pane: Do we have anything for the 14<sup>th</sup>?

Ed Meehan: Just that Special Exception for the sign and what is not listed here and should be is the Three Angels Church.

Commissioner Pane: That is still on schedule?

Ed Meehan: Still on schedule, they haven't responded to our most recent staff comments, but the project engineer asked to come on the 14<sup>th</sup>. We originally had them scheduled for tonight, but he was on vacation.

Commissioner Pane: What was the comment?

Ed Meehan: The comment has to do with the drainage easement off site, can they remove one of the handicapped ramps, handicapped parking space which was never on the original plan, up on Church Street, that could be a code issue.

Commissioner Pane: Do they have the drainage easement in place yet?

Ed Meehan: They haven't told us.

Commissioner Pane: Should they even be in front of us if they don't have the drainage easement?

Ed Meehan: Oh, they can be in front of you but a prudent developer would have all his easements in place before he started.

Commissioner Pane: Madam Chairman, how did everything get started on that if they don't have a drainage easement.

Ed Meehan: They can start the project, we can't tell them, it's a private easement between two private property owners.

Commissioner Pane: But if that easement gets denied, or they don't acquire that easement, they have no project.

Ed Meehan: No, they are back before this Commission to change the direction of the drainage pipe. They are back to change the outlet from the detention basin, instead of going out of the site on a forty-five degree angle, they would come out almost at a seventy, eighty degree angle to Pane Road.

Commissioner Pane: Wouldn't it be prudent to make sure that was.....

Ed Meehan: If I was the developer, I would make sure that I have my drainage easement in place before, but we don't manage the project for them, we're not the construction.....

Commissioner Pane: Oh, I know, but our job as a Commission and the Town should be to protect the residents in the neighborhood there, and I can't imagine why they would be allowed to start this if they don't have all their ducks in a row.

Ed Meehan: It's not a public easement.

Commissioner Pane: I understand that, but if they don't have it and they can't get that and they have to do something else, and if they can't do something else, we don't even know if they can drain the property the other way.

Ed Meehan: You could do it a different way, it may be more expensive. The original plan, one of the early site plans had it I think coming out at almost a ninety degree angle to Pane Road. By doing it the way that they eventually got it approved, on a forty-five degree angle, they eliminated a couple of manholes, probably less expensive from a construction point of view, but I don't think it's the town staff's job to sit down with a private contractor or developer, we don't sit down with somebody who is building a Wal-Mart or a Konover, or anybody else and say, how are you taking care of your project? They get their approvals from the abutting property owners or from the State of Connecticut or where ever they get their approvals from.

Commissioner Pane: As long as we're on the subject Madam Chairman, for the record, I got several phone calls from some neighbors on Kelsey Street, Church Street, and Long Street concerning a couple of vehicles parked on the corner, on their property that have signs for sale. The vehicles are in the right of way, the town right of way, the street right of way. Even if they move them back, they shouldn't be there. It's right on the corner of Pane Road and Church Street.

Commissioner Ganley: Is that the jeep and the boat and the trailer?

Commissioner Pane: Yes.

Ed Meehan: Okay, we'll look at that. If it is in the right of way it may be a police matter, we'll look at it.

Commissioner Pane: One of the neighbors called the police, and they wouldn't do anything.



Ed Meehan: If it's a registered vehicle, it may not be a zoning issue, but we'll look at it.

Chairman Hall: So that is it for the 14<sup>th</sup> and the 28<sup>th</sup> so far?

Ed Meehan: Three, you have two public hearings, one for the sign, one for Three Angels Special Exception, and one for Three Angels church site plan amendment.

Chairman Hall: But this can be changed.

Ed Meehan: The public hearings won't change because we have to put our legal ads in, in the next few days.

**IX      PUBLIC PARTICIPATION**  
(For items not listed on agenda)

None.

**X      REMARKS BY COMMISSIONERS**

Commissioner Pane: I also got some phone calls from neighbors in that area of Church Street concerning, in the back of 595 there is an embankment, and there is an excess amount of trash being thrown down the embankment, fencing and garbage and stuff.

Ed Meehan: Are these new houses?

Commissioner Pane: No, it's one of the houses, a couple of houses up on Long.

Ed Meehan: Oh, over on Long.

Commissioner Pane: Yeah, and there is a big embankment there, there's fencing, there's all kinds of stuff that have been thrown down there and the neighbors there, since they know that I'm on the Commission, they came to me and they asked me to bring it to your attention. They've been asking the town for some time to get the property owner to clean it up because it's very unsightly.

Ed Meehan: This is 595 Long Street?

Commissioner Pane: No, behind 595 Church Street. I don't know the address, it's two, three houses up on the, Long Street. In their back yard there is a big embankment that goes down to a drainage area.....

Ed Meehan: Oh, okay, I know where that house is.

Chairman Hall: The house up on the hill.

Ed Meehan: They used to be in the fence business, is that the house that I'm thinking of.

Commissioner Pane: Yes.

Chairman Hall: Okay, any other remarks by Commissioners?

**XI. STAFF REPORT**

Ed Meehan: I have nothing. May 14<sup>th</sup> I will not be with you, Tony Ferrero, the town engineer is going to cover. All the stars are aligned so I am going to go to my son's graduation. Last one. Everything will be ready for you.

Chairman Hall: Well then for Tony, keep it light. That's fine, if we just have the ones that we talked about so far, keep the others at bay.

**XII. ADJOURNMENT**

Commissioner Fox moved to adjourn the meeting. The motion was seconded by Commissioner Kornichuk. The meeting was adjourned at 8:40 p.m.

Respectfully submitted,

Norine Addis  
Recording Secretary